

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

|                          |   |                          |
|--------------------------|---|--------------------------|
| UNITED STATES OF AMERICA | : | Criminal No. 1:16-CR-161 |
|                          | : |                          |
| v.                       | : | (Judge Rambo)            |
|                          | : |                          |
| TIMOTHY YOUNG            | : | (Electronically Filed)   |

**TIMOTHY YOUNG’S MOTION TO DISMISS  
INDICTMENT ON JURISDICTIONAL GROUNDS  
PURSUANT TO FEDERAL RULE OF CRIMINAL PROCEDURE 12(b)(2)**

AND NOW comes the defendant, Timothy Young, by his attorney, Heidi R. Freese, Federal Public Defender, and files the following Motion to Dismiss Indictment on Jurisdictional Grounds pursuant to Federal Rule of Criminal Procedure 12(b)(2). In support thereof, it is averred as follows:

1. By indictment returned on June 22, 2016, Timothy Young was charged with being a felon in possession of firearms in violation of 18 U.S.C. § 922(g)(1) and 924(a)(2). (Doc. 3).
2. The charged related to Mr. Young’s possession of firearms in his residence on April 6, 2016.
3. On April 30, 2018, Mr. Young was convicted by a jury.
4. An essential element of the sole charge in the indictment is that Mr. Young has been convicted of a crime punishable by imprisonment for a term exceeding one year.

5. The indictment does not identify the prior conviction that triggers the violation.

6. The government alleged that Mr. Young has a prior conviction in Lancaster County, Pennsylvania for terroristic threats in violation of 18 Pa. C.S. § 2706.

7. In Pennsylvania, terroristic threats is graded as a misdemeanor of the first degree and punishable by up to five years in prison.

8. On August 27, 1999, a Timothy Young was sentenced to 4 to 23 months and approved for work release immediately.

9. Certified records of conviction presented by the government at trial also establish that a Timothy Young was convicted in federal court for receipt of a firearm while under indictment or information for a crime punishable by imprisonment for a term exceeding one year in violation of 18 U.S.C. §§ 922(n) and 924(a)(1)(D).

10. On September 3, 1999, a Timothy Young was sentenced to probation for a term of 18 months.

11. Mr. Young possessed firearms in his home for purposes of self-defense.

12. Mr. Young possessed mostly shotguns and rifles and one revolver that was kept under his pillow.

13. Mr. Young's alleged prior convictions do not properly trigger the loss of his fundamental Second Amendment rights.

14. The application of Section 922(g)(1) in this case violates the Second Amendment.

15. An unconstitutional as applied challenge to a statute goes to the court's jurisdiction and may be raised at any time while the case is pending.

WHEREFORE, it is respectfully requested that this Honorable Court dismiss the indictment.

Respectfully submitted,

Date: May 14, 2018

/s/ Heidi R. Freese  
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**CERTIFICATE OF SERVICE**

I, Heidi R. Freese, Federal Public Defender, do hereby certify that this document, the foregoing **Motion to Dismiss Indictment on Jurisdictional Grounds Pursuant to Federal Rule of Criminal Procedure 12(b)(2)**, via Electronic Case Filing, and/or by placing a copy in the United States mail, first class in Harrisburg, Pennsylvania, and/or by hand delivery, addressed to the following:

Daryl F. Bloom, Esquire  
Assistant United States Attorney  
United States Attorney's Office  
228 Walnut Street, Room 220  
Harrisburg, PA 17108

Timothy Young

Date: May 14, 2018

/s/ Heidi R. Freese  
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